

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA

v.

2:07CR111

MICHAEL JAMES TOMKO

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to a single count criminal information, charging defendant with interstate transportation of child pornography, in violation of 18 U.S.C. § 2252A(a)(1). On June 6, 2007, defendant appeared before the Court for the purpose of entering his guilty plea. Defendant was represented by appointed counsel, David M. Good, Esquire. In the course of the proceeding, defendant acknowledged his understanding of the right to be indicted and expressly consented to proceeding on the criminal information of the United States Attorney.

Defendant was appropriate in appearance, responsive, and competently prepared for the hearing. He answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was released on a recognizance bond with electronic

monitoring and other conditions, pending completion of a presentence report.

Defendant is twenty-two years of age, graduated from high school, and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

Norfolk, Virginia

June 7, 2007

/s/
James E. Bradberry
United States Magistrate Judge